Advisory Opinion

IECDB AO 2007-05

June 28, 2007

Kevin Boyd
House Campaign Director
kboyd@iowademocrats.org

Dear Mr. Boyd:

This opinion is in response to your email letter of May 11, 2007, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board pursuant to Iowa Code section 68B.32A(11) and Board rule 351—1.2. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

FACTUAL STATEMENT:

You request this opinion in your capacity as the House Campaign Director for the Iowa Democratic Party. You state that Schedule G is required by a campaign committee to disclose transactions involving a consultant when the consultant makes expenditures on behalf of the campaign committee. You also state that it is becoming increasingly common for campaign committees to write a check to one business that owns several radio stations.

QUESTION:

Does the purchase by a campaign committee of radio ads from a broadcasting company that owns multiple radio stations deem the broadcasting company a consultant that triggers the campaign committee filing a Schedule G?

OPINION:

Iowa Code section 68A.402A(1)"g" and Board rule 351—4.19 require a campaign committee to disclose transactions with a consultant. These disclosures are made on Schedule G (Breakdown of Monetary Expenditures by a Consultant) of a campaign committee's disclosure report. As stated in the directions on the back of the schedule, the purpose is to "provide information about campaign activities that have been contracted with a third party." Without the schedule, a campaign committee would disclose on another schedule payment to a consultant. The consultant could then use a

portion of that payment to engage in campaign activities such as purchasing advertising and the public would not know how the money was actually spent.

We first note that the term "consultant" has to be defined broadly in order to ensure full public disclosure. Part of the confusion with the situation you describe is that campaign committees are not disclosing the purchasing of advertisements with "ABC Radio Station" and "XYZ Radio Station." Rather, they are disclosing the purchase of advertising with "JKL Broadcasting Company" and that company happens to own the radio stations on which the advertisements are going to appear.

The law and Board rule simply do not cover this situation. There are no third party transactions or potential for hidden campaign activities. The broadcasting company owns the radio stations on which the advertisements are going to be placed. While more specific disclosure such as the naming of the exact radio stations the advertising is going to appear on could be obtained, that is not what the current law and rule governing Schedule G, or the schedule itself, dictate is required. However, the public is still able to access a campaign committee disclosure report and see that radio advertising was purchased from a broadcasting company.

Therefore, so long as campaign committees properly report on Schedule B (Monetary Expenditures) that radio advertising was purchased from the broadcasting company that owns the radio stations on which the advertising is going to appear, the requirement to file a Schedule G is not applicable.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel